

THE NEWS OF NORFOLK ON PAGES 2, 3, 5, 6 & 9.

COURT DECISIONS.

Notes of Cases Recently Decided,
Which are of Interest to
Our People.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)

D. L. V. R. M. CO. V. GERMAN
SAVINGS INST.
Supreme Court United States,
October 30, 1899.

A CONVEYANCE OF ALL THE ASSETS OF A CORPORATION SIGNED BY ALL THE STOCKHOLDERS IS INVALID WITHOUT THE FORMAL ACTION OF A MEETING HELD FOR THAT PURPOSE.

A CORPORATION CANNOT PURCHASE THE STOCK OF ANOTHER CORPORATION IN ORDER TO SUPPRESS COMPETITION AND CONTROL ITS MANAGEMENT, UNLESS EXPRESS AUTHORITY IS GIVEN IT TO DO SO.

This was a consolidation of eight actions brought by the German Savings Institution and others against the De Le Vergne Refrigerating Company for a failure to deliver certain stock in the Refrigerating Company to the plaintiffs. From a judgment for plaintiffs defendant appealed.

The principal question in this case is whether, under the laws of New York providing for the organization of manufacturing corporations, such corporations are authorized to purchase the stock of a rival corporation for the purpose of suppressing competition and obtaining the management of such corporation.

The main defense pressed upon our consideration is one which does not seem to have been called to the attention of the Circuit Court, and one upon which the judges of the Circuit Court of Appeals were equally divided in opinion. It is that the president of the Refrigerating Company had no authority to sign the contract in question, and that the agreement itself was ultra vires the corporation. There was no corporate action taken authorizing any such conveyance by the corporation, and such conveyance could not, under the laws of Illinois, which conform in this particular to the general law, be within the power of the stockholders, even though they all signed it, without formal action at a meeting held for that purpose. It is true the president assumed to sign the contract as president, and to bind the company, but it is scarcely necessary to say that the president of a corporation has no power as such to make a general conveyance of the assets of the corporation without at least the assent of the Board of Directors. But as the powers of corporations, created by legislative acts, are limited to such as the act expressly confers, and the enumeration of these implies the exclusion of all others, it follows that unless express permission be given to do so, it is not within the general powers of a corporation to purchase the stock of other corporations for the purpose of controlling their management.

Our conclusion upon this branch of the case is that, as the main, if not the sole, object of the purchase from the plaintiffs was to acquire their stock in the Consolidated Company, such purchase was ultra vires the Refrigerating Company. Reversed.

STATE V. DAVIS.

Supreme Court of North Carolina.
October 31, 1899.

A STATEMENT BY A PRISONER UNDER ARREST FOR RECEIVING STOLEN GOODS, MADE TO THE PERSON HAVING HIM IN CUSTODY, HELD INADMISSIBLE AS HAVING BEEN MADE UNDER THE INFLUENCE OF HOPE OR FEAR.

The facts of the case as well as the point decided appears from the opinion of the court.

The court says:
The defendant was indicted for larceny and receiving stolen goods of one Horton. It was proved that Horton's store had been robbed and burned. There was no evidence identifying the goods alleged to have been stolen, and the prosecution failed on the first count. There was no evidence relied on by the State, except the declarations of the defendant, to sustain the second count. The competency of these declarations is the only question presented.

The defendant was arrested by J. H. Conrad, and while in his custody Conrad said to him that he "had worked up the case, and he had as well tell all about it." The defendant denied any knowledge of the alleged stolen articles, but after a while said that another person brought the goods to his house. The house referred to was his mother's house. An officer, with authority to arrest, discharges his duty by simply making the arrest, and it is no part of his duties to provoke a prisoner to make any statement. The genius of our free institutions provides that admissions of a party should not be used against him, unless made voluntarily. The common law looks with jealousy on such confessions; for, if made under the influence of hope or fear, they furnish no test of the truth of the matter. They may be true, and they may be inspired by either hope or fear that such statements will be better for him in the near future. "The mind, under the pressure of calamity, is prone to acknowledge, indiscriminately, a falsehood or a truth, as different agitations may prevail; and therefore a confession obtained by the slightest emotion of hope or fear ought to be rejected."

The language that I "had worked up the case, and he had as well tell all about it," was well calculated to agitate the mind of the defendant, an ignorant man, then a prisoner, and cause him to conclude that a prompt admission, true or false, would mitigate his punishment. This case closely resembles State v. Whitfield, where the language of the prosecutor was: "I believe you are guilty. If you are, you had better say so; if you are not, you had better say that." Held, that the confession was made under the influence of hope

or fear, or both, and was inadmissible. In *Green, Ex. tit. "Confessions,"* the general question is analyzed, with cited cases, and the principles above stated run through the chapter. That author says: "It should be recollected that the mind of the prisoner himself is oppressed by the calamity of his situation and that he is often influenced by motives of hope or fear to make an untrue confession." The fact that the defendant at first denied, and after a while confessed, shows that some influence was operating on his mind. Both statements could not be true. We are of opinion that the confession, under the circumstances, was inadmissible. Error.

BRAMBLETON.

Mr. Samuel P. Cotton, of Norfolk, and Miss Mamie A. Adams, of Portsmouth, were married by Rev. L. R. Christie, of Spurgeon Memorial Baptist Church at the parsonage, on West Brambleton avenue, at 8 o'clock last night. The bride wore white tulle dress trimmed in white duchess lace, and carried Bride roses. Miss Lettie Jernigan, of Berkley, was the maid of honor. Her costume was similar to that of the bride. The groom and his best man, Mr. Edward Adams, a brother of the bride, were attired in conventional black.

At the conclusion of the ceremony the happy couple were driven to the home of the groom, on Arlington Place, where a reception was tendered them. Mr. and Mrs. Cotton will reside at No. 1 Arlington Place.

THANKSGIVING SERVICE.

The Rev. J. W. Hypes, of Salem, Va., the evangelist, will arrive in the city this morning and conduct the Thanksgiving service at the Memorial Christian Temple to-day at 11 o'clock. He comes to aid Dr. Barrett in the series of meetings now in progress at the Temple, in which the interest is already running high. Mr. Hypes is a man of much experience in this work. He will preach also at 7:30 to-night. He is one of the Lord's sweet-spirited messengers. The public is cordially invited to attend these services.

BREVITIES.

The Ladies' Auxiliary Society No. 4 will hold its regular meeting at Park Avenue Baptist Church at 3 o'clock this afternoon.

Rev. W. R. Proctor, with his mother and sister, will occupy the McKendree M. E. parsonage, corner of Willoughby and Rose avenues to-night.

The members of the Christian Memorial Temple will unite in the Thanksgiving service at Park Avenue Baptist Church this morning.

Rev. Lloyd T. Williams and wife will leave Saturday for the Eastern Shore of Virginia, where they will spend a short vacation with Mr. Williams' parents before going to his new charge in Lynchburg.

Miss E. Dozier, of 133 South Maltby avenue, has returned from an extended visit to friends and relatives in Eastern North Carolina.

Rev. George W. Jones, the new pastor of Trinity M. E. Church, is expected to arrive in time to fill his pulpit next Sunday morning and night.

There will be a union Thanksgiving service at Park Avenue Baptist Church this morning at 11 o'clock. Rev. J. J. Taylor, D. D., pastor of Freeman Street Baptist Church, will deliver the sermon.

Buy your candles from T. B. Turner. It's nice and always fresh. Huyler's and Lowmy's fresh every week.

ATLANTIC CITY.

A beautiful and impressive nuptial event was celebrated at the residence of Mr. George C. Ferguson, on Third street, at 5 o'clock yesterday afternoon, when Mrs. Ellen Scott became the bride of Mr. George E. Dougherty, of Northampton county, Va. The ceremony was performed by Rev. H. E. Johnson, D. D., of Cumberland Street M. E. Church, in the presence of a select company of invited guests, friends of the bride and groom. Mr. and Mrs. Dougherty left on the Cape Charles steamer for their home, in Northampton county, last evening, where they were tendered a reception at the home of the groom's sister.

The Epworth League conducted the service at LeKies Memorial Church last night.

The congregation and Ladies' Aid Society of LeKies Memorial Methodist Church will tender their new pastor, Rev. Graham H. Lambeth, a formal reception next Tuesday night. A special program has been arranged for the occasion, which will include a welcome address from one of the official members, and a response by the pastor. The "Colley Club" will entertain the ladies at their rooms to-day from 10 a. m. to 7 p. m. There will be some fine musical selections rendered and refreshments will be served at intervals during the day.

The members of Colley Memorial Church will unite with the Second Presbyterian Church in Thanksgiving service at 11 o'clock this morning.

HUNTERSVILLE.

Miss Juliet Barclay, of St. Brides, Norfolk county, is visiting Miss Alice V. Strawhand, on Elmwood avenue. A son of Mr. Shepherd, residing near Queen street, fell from a tall pecan tree Tuesday, sustaining painful injuries.

The Rev. Daniel T. Merritt, pastor of Huntersville M. E. Church, is getting ready for a year of active ministerial work with his people, so as to make the present conference year one of the best in the history of the church.

Concert at the Monticello.

The concert given at the Monticello Hotel last night by the Seaboard Air Line band attracted a large number of auditors. The fine program as published in the Virginian-Pilot was carried out. It is estimated that over five hundred people enjoyed the music during the evening, and many of these were ladies. The hotel management is to be congratulated on the enterprise it has displayed in going to such an expense for the benefit of the Norfolk public.

Hospital Benefit Excursion.

There will be a special excursion to-day via the Norfolk and Western railway to Richmond for the benefit of the Protestant Hospital. The feature of attraction is the great football game between Virginia and Lehigh.

A special fast train will leave Norfolk at 9:00 a. m. Returning, it will leave Richmond at 8:00 p. m., without change of cars.

LIGHTING CITY DISCUSSED

Continued from Page 1

the city contract, 2 per cent. upon their gross receipts from the sale of electricity, or 2 per cent. upon the gross amount turned into the treasury of the company from all sources.

"Had the Norfolk Heat, Light and Power Company the lowest, and had it been unnecessary to use their sliding or adjustable bid, they could have claimed that their 2 per cent. meant 2 per cent. upon the amount of the city contract, but as it stood, that was not enough to bring them as low as the bid of our company. As it was necessary to make up a difference of \$1,297, they moved their sliding bid so as to guarantee that the gross receipts should be at least \$75,000, 2 per cent. of which is \$1,500. Had it been necessary to make up a difference of \$2,000, they might just as well have guaranteed that the receipts should be \$100,000. If these gentlemen had stated in their original bid what amount of gross receipts they would guarantee, and this amount had been sufficient to bring them to a lower net price to the city than our own bid, we should have raised no objection. But we do respectfully suggest that the proposed report of two of your committee, recommending that the offer of the Norfolk Heat, Light and Power Company be accepted, provided that they guarantee that the 2 per cent. upon its gross receipts will not be less than \$1,500 per annum, etc., changes entirely, the bid of that company, and changes it after they have had a chance to know what the bid of our company is. That it does change it cannot be disputed, for by the terms of your report, the Norfolk Heat, Light and Power Company has the privilege to make such guarantee or not. This could not be the case if they had made it a part of their bid.

"Allowing that these gentlemen guaranteed a return to the city of 2 per cent. on \$75,000, even then it is not clear that the city is making the contract most favorable to itself. According to the bid on open lights, our company's bid is \$4,801 lower than that of the Norfolk Heat, Light and Power Company, and in the enclosed are lights our bid is \$1,297 lower per annum. Two per cent. on \$75,000 gross income from the Norfolk Heat, Light and Power Company, amounting to \$1,500, would give a difference in their favor of \$303, provided, however, that no are lights are added by the city during the next three years. If, during the next year or two years, the city adds only forty-one (and it is within all probability that they will add a larger number than that), the Norfolk Heat, Light and Power Company, charging as they do, \$5 more per annum per light, will still be found to be higher than our bid, and each additional light added by the city during the course of the three-year contract will make a difference in our favor that much greater.

"Now, taking up the open are-light question, if the city shall adopt that system, as already shown, the bid of the Norfolk Railway and Light Company is \$4,801 per annum, or \$14,403 for the three years less than the Norfolk Heat, Light and Power Company. If allowance is made for the \$1,500, above mentioned, which has been introduced since the bids were opened, the saving would still be \$3,302 per annum, or a difference in our favor during the continuance of the contract of \$9,903.

"The enclosed are light is by no means beyond the experimental stage. About 30 out of 2,000 cities in the United States, which are lighted by electricity, are at present using the enclosed are lights; some of these are only partial users. Philadelphia, which is included in the above 30, has 7,122 open arc and only 25 enclosed are lights.

"We beg to submit that, if the privilege is granted to any one of the bidders to alter or amend his bid, after seeing the bids of the other competitors for the business, the same privilege should be given to all the bidders.

"As citizens of Norfolk, as taxpayers, and as directors of a corporation having large interests in our community, which interests it is our duty to protect, we have a right to expect at the hands of a committee of the City Council fair business treatment—treatment that they themselves would demand at the hands of other people, and we ask nothing else.

"We are the lowest bidders, and we do feel that we should be awarded the contract, but in no event should we be deprived of the contract without being given the same opportunity to amend our bid as is given to others.

Respectfully submitted,
(Signed) "E. ST. JOHN."
"WALTER H. DOYLE,
"J. W. PERRY,
"J. P. A. MOTTU,
"R. B. COOKE.

"Special Committee, Board Directors,
"Norfolk Railway & Light Co."

A Choir Celebration.

Mr. J. J. Miller will celebrate the sixteenth anniversary of his incumbency as organist and choirmaster of Christ P. E. Church Sunday at this church. At the morning service a double musical program, specially prepared for the occasion, will be rendered, and two services, instead of one, as usual, will be held in the evening. The music at each service will be of a high order of merit. At one of the services Bishop Randolph will preach on the subject of music. Among the special numbers on the musical program will be solos by Miss Lizzie Taylor and Mr. Richards.

Attempt at Suicide.

Eva Pentress, who resides at No. 113 Church street, attempted to commit suicide about 9 o'clock last night by swallowing an ounce of laudanum. Dr. J. K. Speight was summoned and quickly resorted to vigorous treatment with the hope of saving her life. He could not say positively at midnight whether his efforts would be crowned with success. All depended on keeping her awake.

The Pentress woman is about 25 years of age and is said to have swallowed the drug in a fit of despondency, disappointment in a love affair.

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COUGH SYRUP

Cures Croup and Whooping-Cough
Unexcelled for Consumptives. Gives quick, sure results. Refuse substitutes.
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AMUSEMENTS.

Rusco & Holland's Colored Minstrels performed at the Academy last night before an audience that was exceedingly "top-heavy."

The performance was good in some parts, while in others it was entirely devoid of interest.

The comedians were fair, and their take-offs and antics were frequently applauded, and the specialties, principally the slack-wire and contortion turns, were very good.

Taken individually, the voices were uncultivated and lacked tone, but collectively they had that peculiar sound that makes negro choruses as a rule pleasing to the ear.

"IN PARADISE."

The three act comedy, "In Paradise," which appears at the Academy of Music to-day, matinee and night, certainly cannot be used to point a moral or adorn a tale; it was constructed for laughing purposes only. As a laugh producer it is said to have fulfilled all its obligations—and as a farcical composition it is in a class of its own.

"In Paradise" tells a perfectly natural and consistent story; novelty is not claimed for its theme, its strength lies in the way the situations are constructed and worked out. In this latter the adapters have made their claim to originality perfectly good.

Prices: Matinee, 50 cents, any seat. Night, 25 cents to \$1.

HENSHAW AND TEN BROECK.

An old favorite of our theater-goers will be seen at the Academy for two performances next Monday, December 4th. John E. Henshaw is the one, and his popularity in this city will surely cause the Academy to be well filled at both performances. His old farce, "Dodge's Trip to New York," has been rewritten and brought up-to-date, and includes many of the new musical gems of the year.

The Richmond Disabled.

The Clyde (chartered) steamship Richmond was towed into Hampton Roads yesterday by the steamship City of Augusta, of the Savannah Line. As she passed Cape Henry she signalled, stating she was disabled. The damage is to her rudder and shaft. The City of Augusta picked her up at sea in a helpless condition. Her run is from Norfolk to North Carolina. She will probably repair here.

OTHER LOCAL ON PAGE 6

DRAGGING OUT MISERABLE LIFE.

Why drag out a miserable existence, useless to yourself and a burden to every body around you, when Dr. Greene, the leading specialist in chronic and lingering diseases, offers free consultation and advice. Dr. Greene, 35 West 14th St., New York City, may be consulted without cost or charge, personally or by letter. Here is an opportunity to get started on the road to recovery without any cost whatever. If Dr. Greene cannot cure you he will tell you so at once. If he can cure you he will give you the joyful assurance of the fact, and do exactly what he says. Dr. Greene is the discoverer of Dr. Greene's Nervura blood and nerve remedy, and a regular physician of world-wide fame.

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Men's Outfitters,

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Give Your Wife a Hint

that you'd like a Smoking Jacket or Bath Robe for Christmas—and as good a hint as you can give is to call her attention to these items. They're only a few of a great many styles in these and other grades that make up our stock, which is decidedly the largest shown anywhere:

Lamb's Wool Jackets, in stripes and checks, lined with velvet. Value, \$1-for.....	\$2.50	Venetian Cloth Tuxedo House Coats, with plaid facings and cuffs. Value, \$7-for....	\$4.98
Blue Tricot Jackets, with quilted linings and silk frog. Value, \$1.20-for.....	\$3.48	Double-faced English Camel's Hair Jackets, reverse side plaid, shawl collar and cuffs, showing plaid side. Value, \$10.....	\$7.48
Brown, Blue, Garnet, Green, and Mode Tricot Jackets, with quilted satin facings and cuffs; silk frog. Value, \$7-for.....	\$4.98	Eiderdown Bath Robes, fancy effects; cut long and full. Value, \$1.50-for.....	\$2.98
Velveted Jackets, with quilted satin lining; Brown, Blue and Garnet. Value, \$12.50-for.....	\$9.75	Blanket Robes, plain with border effects. Value, \$5, for finer quality at \$6.50.	\$4.75
Imported Silk Matelasse Jackets. Brown and Black novelties. Value, \$15-for.....	\$12.50		

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The exclusiveness of the patterns is assured; the garments are ready-to-wear the moment you want them, and if the slightest cause for dissatisfaction exists, YOU CAN HAVE YOUR MONEY BACK FOR THE ASKING, AND THAT'S MORE THAN YOU CAN GET AT YOUR TAILOR'S.

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ELLWOOD ALL STEEL WOVEN FIELD FENCE,
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OUR VARIETY MEETS THE DESIRE OF EVERY ONE. KODAKS, \$5.00, \$10.00, \$15.00 AND \$20.00. CAMERAS, \$2.50, \$3.75, \$5.00, \$7.50, \$10.00, \$14.00, \$15.00, \$20.00, \$25.00 AND \$50.00. PHOTOGRAPHIC SUPPLIES, EASTMAN FILMS, SOLIO PAPERS, KODAK PLANTIN, DEVELOPERS, TONING SOLUTIONS, SEEDS, PLATES, PLATE HOLDERS, TRAYS, RUBY LAMPS, TRIPOD AND CHEMICALS OF ALL KINDS.

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When you have the supreme satisfaction of putting on a Collar or Shirt done up at the

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105 Granby St.
New Phone 54.

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The Soda Water Season is past and the Candy Season is here. Fresh, new, dainty Confections.

Our counters are again loaded with the largest and most tempting line of choice pure hand-made confectionery shown in Norfolk. These goods are made by skilled workmen in our own factory, fresh every day.

We will furnish ICE CREAM in all the popular flavors, for balls, banquets, weddings, reception and other social functions, and for family use, throughout the winter.

Goods delivered free to all parts of the city.

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